Before the
Federal Communications Commission
Washington, D.C 20554

In the Matter of	)	
	)	
Annual Assessment of the Status of	)	
Competition in the Market for the	)	MB Docket No. 04-227
Delivery of Video Programming	)	
	)	

COMMENTS
OF THE
NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

The National Telecommunications Cooperative Association (NTCA)[1] submits these comments in response to the FCC's (Commission's) June 10, 2004 Notice of Inquiry (Notice) seeking data and information on the status of competition in the market for the delivery of video programming.[2] The information collected via this Notice will ultimately be used to produce the Commission's eleventh annual report on competition in the market for the delivery of video programming.

A large segment of NTCA's member companies provide video service to rural America. Currently, 216 NTCA member companies provide cable television service, and 79 member companies offer direct broadcast satellite (DBS). Other NTCA companies

[1] NTCA is the premier industry association representing rural telecommunications providers. Established in 1954 by eight rural telephone companies, today NTCA represents more than 560 rural rate-of-return regulated telecommunications providers. All of NTCA's members are full service incumbent local exchange carriers (ILECs) and many of its members provide wireless, cable, Internet, satellite and long distance services to their communities. Each member is a "rural telephone company" as defined in the Communications Act of 1934, as amended (Act). NTCA's members are dedicated to providing competitive modern telecommunications services and ensuring the economic future of their rural communities.
[2] Notice of Inquiry, In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, MB Docket No. 04-227, FCC 04-136 (rel. June 17, 2004).

are pioneering efforts to utilize the telecommunications infrastructure to deliver video programming over fiber, hybrid fiber coax and copper facilities. These companies serve the most rural segments of this country, where the cost and difficulty of providing service is the greatest. In many areas, NTCA member companies are the only providers currently serving these customers.

NTCA'S BROADBAND SURVEY SHOWS MEMBER COMPANIES WORKING HARD TO PROVIDE VIDEO SERVICES TO RURAL AMERICANS.

Each year, NTCA surveys its member companies on their activities in the area of providing broadband service and Internet access to their customers. As part of the survey, NTCA asks some questions about video service.

The 2004 survey[3] (which was conducted in May of this year) found that 44% of respondents currently offer video services to their customers. Further, an additional 10% planned to do so by year-end 2004, and 23% more by the end of 2006. Only 23% of survey respondents indicated they had no plans to enter the video market.

Respondents were also asked what technologies they used to provide video to their customers. Forty-two percent of those offering video indicated that they utilize hybrid fiber coax (HFC), 25% each use digital subscriber line (DSL) or standard coax, and 4% each use wireless or fiber to the home/fiber to the curb.

The fact that these companies must face such significant obstacles to provide video service makes their efforts all the more impressive. Rural customers are more geographically dispersed than their non-rural counterparts, and hence the per-customer cost of providing service is significantly higher. NTCA members are to be applauded for

[3] NTCA, 2004 Broadband/Internet Availability Survey (rel. June 2004). Available online at the NTCA Web site: www.ntca.org.

their efforts, and deserve to be recognized in the forthcoming Eleventh Report on Competition in Video Markets.

CHANGES ARE NEEDED TO INCREASE COMPETITION IN THE DELIVERY OF VIDEO TO RURAL AREAS.

While NTCA's broadband survey shows that NTCA member companies are making steady progress in delivering competitive video services in rural areas, access to programming is an obstacle for members involved in pioneering efforts to compete with cable or bring service to unserved areas using fiber, copper or hybrid facilities.

Today, small cable television providers and local exchange carriers (LECs) possess far less leverage in dealing with content providers than do the larger multiple system operators (MSOs), who are able to deliver more viewers. As a result, the large MSOs are able to demand—and receive—more beneficial terms from the content providers than they otherwise might. Smaller carriers, on the other hand, lack similar leverage, and as a result content providers adopt a relatively inflexible position in their negotiations with them.

Exclusive dealing arrangements put small carriers at a further disadvantage. Tying arrangements—whereby a network requires a carrier to take additional networks in order to have access to a flagship network—are rampant. The end result is that the small carrier must pay a higher price in order to insure access to the desired flagship network. The problem is more dramatic for a small carrier with limited capital resources than for a large MSO who can afford to pay for the extra networks. Lacking channel capacity, smaller carriers are often compelled to reposition (or even drop) channels in order to accommodate the additional networks forced on them by the flagship network, resulting in confusion and dissatisfaction for their subscribers. Exclusionary practices—

specifically, denying small providers access to certain networks—also negatively impact the small carriers' ability to remain competitive.

Unless carriers in rural areas are able to obtain the programming content their customers demand at reasonable rates, they will be unable to effectively compete with larger MSOs. The Commission should strive to adopt measures—such as allowing carriers to purchase *a la carte* programming—to ensure that small carriers are able to compete with large carriers.

CONCLUSION

Last year's Tenth Annual Report on Competition in Video Markets stated "significant LEC entry into the video marketplace has failed to materialize."[4] Elsewhere, the report characterized LEC participation in the video marketplace over the past decade as "lackluster."[5] NTCA strongly believes that the survey results presented here show those statements to be incorrect. The Eleventh Report on Competition in Video Markets

[4] In the Matter of Annual Assessment of the Status of Competition in the Market for the Delivery of Video Programming, Tenth Annual Report, MB Docket No. 03-172, FCC 04-5 (rel. Jan. 28, 2004), at 4.
[5] *Id*., at 10.

should reflect the strong efforts put forth on the part of small rural incumbent LECs to provide video service to rural America. The Report should also recognize that the Commission needs the authority to adopt measures that facilitate small telco access to programming.

Respectfully submitted,

NATIONAL TELECOMMUNICATIONS COOPERATIVE ASSOCIATION

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CERTIFICATE OF SERVICE

I, Gail Malloy, certify that a copy of the foregoing Comments of the National Telecommunications Cooperative Association in MB Docket No. 04-227, FCC 04-136 was served on this 23rd day of July 2004 by first-class, U.S. Mail, postage prepaid, to the following persons.

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